Trujillo v. Apple Computer, Inc. et al Doc. 90

Order Form (01/2005)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Matthew F. Kennelly	**Sitting Judge if Other than Assigned Judge**	
CASE NUMBER	07 C 4946	**DATE**	4/14/2008
CASE TITLE	Trujillo, et al. vs. Apple Computer, Inc., et al.		

DOCKET ENTRY TEXT

For the reasons stated below, the Court directs defendant AT&T Mobility LLC to file, by no later than April 16, 2008, a complete statement regarding its citizenship, as more fully described below.

■[For further details see text below.] Docketing to mail notices.

STATEMENT

Plaintiff Jose Trujillo, an Illinois citizen, filed this suit in state court, naming as defendants Apple Computer, Inc. and AT&T, Inc. Apple removed the case removed to this Court based on the provisions of the Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. §§ 1332(d) & 1453(b).

The applicable provisions of CAFA require, as a prerequisite to federal jurisdiction, that the matter be a class action in which the amount in controversy exceeds $5,000,000, and (among other alternatives) “any member of a class of plaintiffs is a citizen of a State different from any defendant.” *Id.* § 1332(d)(2). In removing the case, Apple asserted that Trujillo had filed suit on behalf of a class consisting of all persons throughout the United States who had purchased Apple’s iPhone starting in 2007, a putative class that Trujillo said consists of at least the hundreds of thousands of persons. Notice of Removal ¶ 9. Apple also asserted that CAFA’s minimal-diversity requirement was satisfied because Trujillo, a member of the putative class, is an Illinois citizen and thus a citizen of a state different from both Apple (a citizen of California) and AT&T, Inc. (a citizen of Texas). *Id.* ¶ 10. Apple also explained why the amount in controversy exceeds $5,000,000. *Id* ¶¶ 12-14. Finally, Apple stated that CAFA’s mandatory and discretionary abstention provisions do not apply. *Id.* ¶ 15.

Shortly after Apple removed the case, Trujillo voluntarily dismissed AT&T, Inc. and filed an amended complaint replacing AT&T, Inc. with a new defendant, AT&T Mobility LLC. The circumstances strongly suggest that Trujillo’s counsel had become aware that he had originally named the wrong defendant. The amended complaint identified AT&T Mobility LLC as “a Georgia corporation . . . whose headquarters are located in Atlanta, Georgia,” Am. Compl. ¶ 3, a formulation the Court takes as denoting that Georgia is AT&T Mobility LLC’s principal place of business. In the amended complaint, Trujillo himself asserted that this Court has jurisdiction under CAFA. *Id.*¶ 4.

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STATEMENT

The Court currently has under advisement AT&T Mobility LLC's motion to compel Trujillo to arbitrate his claims against it. In reexamining the matter of jurisdiction, the Court now believes that it requires more information to ensure that jurisdiction appropriately exists and that CAFA's mandatory abstention provision is inapplicable. (CAFA may require only minimal diversity, but that requirement still must be met.) Specifically, given the name of AT&T Mobility LLC, the Court is doubtful that it is actually a "Georgia corporation." Rather, it is more likely that it is a "limited liability company," a form of business organization that is somewhat of a hybrid of a corporation and a partnership. The Seventh Circuit has made it clear that for purposes of diversity jurisdiction, the citizenship of a limited liability company is that of each of its "members." *See Mutual Assignment & Indemnification Co. v. Lind-Waldock & Co., LLC*,364 F.3d 858, 861 (7th Cir. 2004); *Cosgrove v. Bartolotta*,150 F.3d 729, 731 (7th Cir. 1998).

For this reason, if AT&T Mobility LLC is in fact a limited liability company, it must file, by no later than April 16, 2008, a statement setting forth the citizenship of each of its members, including the complete citizenship of any corporate or "LLC" members. (If AT&T Mobility LLC is some form of business organization other than a limited liability company, it must identify that form and describe its citizenship completely.) The Court will, following AT&T Mobility LLC's filing, promptly reassess the question of jurisdiction. The Court acknowledges that the change from AT&T, Inc. to AT&T Mobility LLC came after the case was removed, meaning that this might not undermine the appropriateness of removal if the Court had jurisdiction at the time of the removal. The Court will take this factor in account to the appropriate extent in the event that AT&T Mobility LLC's statement of citizenship suggests the absence of minimal diversity under CAFA.